

REMARKS

Claims 1-38 are currently pending. Claims 1, 3-9, 12-15, and 18-38 were rejected. Claims 2, 10, 11, 16, and 17 were objected to as being dependent upon a rejected base claim and indicated as containing allowable subject matter if rewritten in independent form.

Second Claim 24 has been cancelled and renumbered as newly added Claim 39.
No claims have been amended.

Claims 7-9, 12-15, and 18-38 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wine et al. (U.S. Patent 6,245,590). Claims 1 and 3-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wine et al. (U.S. Patent 6,245,590) in view of ordinary knowledge of the art.

The applicant notes that Wine et al. is commonly assigned herewith.

The examiner has not shown Wine to disclose or reasonably suggest an “electronic controller operative to automatically vary the power of the first beam inversely proportionally to the received energy” as recited by claim 1, nor has he shown any suggestion to combine Wine with the so-called ordinary knowledge to do so, nor has he shown any structure in Wine that would allow ordinary knowledge to be applied in the manner suggested, nor has he shown that such so-called ordinary knowledge would constitute anything other than impermissible hindsight.

The examiner has not shown Wine to disclose a controller that includes an operative relationship between received energy and the power of a scanning beam. Particularly, the examiner has not shown Wine to disclose a “leveling circuit” as asserted.

At column 17, lines 56-59 for example, Wine discloses that “the decoding electronics 612 modulates the drive current of the illumination sources 614 to modulate the intensity of the emitted light according to the desired image.” The applicant respectfully asserts that this passage and the larger passage cited by the examiner makes no mention regarding modulating power as a function of received energy. Rather, the passage apparently refers to projecting an image onto the field-of-view. While this

projection of information may be responsive to information decoded from a visible indicia such as a bar code symbol, the applicant finds no mention (and the examiner did not specify any mention) of modulating the illumination sources responsive to an intensity of received scattered energy. Thus the examiner has not shown Wine's "electronic controller operative to automatically vary the power of the first beam *responsive to the received energy*", making the point moot regarding whether one having ordinary knowledge would select an "inverse proportionality" or any other relationship between the received energy and illuminator power. Since there is no disclosed responsive relationship between received energy and illuminator power, one having ordinary knowledge would simply have no impetus to consider a relationship between the two.

Claim 1 is allowable for at least this reason.

Claims 3-6 depend from Claim 1 and are allowable for at least the reasons given for Claim 1.

Claim 7 is allowable for reasons similar to those given for claim 1. Specifically, the examiner has not shown Wine to disclose "automatically determining a second illumination pattern corresponding to a reduced range of scattered light energy and illuminating the plurality of spots with the second illumination pattern" as recited by Claim 7. Claims 8-9 depend from Claim 7 and are allowable for at least the reasons Claim 7 is allowable.

Claim 12 is allowable over Wine for reasons similar to those given for Claim 1. Specifically, the examiner has not shown Wine to disclose "a controller coupled to [a] detector and [a] frame buffer, said controller being responsive to the detection signal to adjust values in said frame buffer," as recited by Claim 12.

Claims 13-15 depend from Claim 12 and are allowable for at least the reasons given for Claim 12.

Regarding Claim 18, the examiner has not shown Wine to disclose "an illuminator ... that emits light responsive to said pulses" and "a detector oriented to detect light scattered from the field of view, said detector being preferentially sensitive to the rate of the pulses," as recited by Claim 18. Because Wine does not disclose or fairly

suggest all the limitations of Claim 18, Claim 18 is allowable over Wine. Claims 19-22 depend from Claim 18 and are allowable for at least the reasons given for Claim 18.

Claim 23 is allowable for reasons similar to those given for Claim 18. Specifically, the examiner has not shown Wine to disclose or reasonably suggest “a detector aligned to detect light scattered from said field of view tuned to be preferentially sensitive to an instantaneous rate of the pulses,” as recited by Claim 23. Because Wine does not disclose or fairly suggest all the limitations of Claim 23, Claim 23 is allowable over Wine. Claims 24-25 depend from Claim 23 and are allowable for at least the reasons given for Claim 23.

Claim 26 is allowable for reasons similar to those given for Claim 1. Specifically, the examiner has not shown Wine to disclose or fairly suggest “automatically determining a first illumination energy optimum for a first spot in a field-of-view and automatically determining a second illumination energy optimum for a second spot in the field-of-view, as recited by Claim 26. Because Wine does not disclose or fairly suggest all the limitations of Claim 26, Claim 26 is allowable over Wine. Claims 27-35 depend from Claim 26 and are allowable for at least the reasons given for Claim 26.

Claim 36 is allowable for reasons similar to those given for Claim 1. Specifically, the examiner has not shown Wine to disclose or reasonably suggest “a leveling circuit coupled to said detector and responsive to said signal to modify the pattern in said frame buffer,” as recited by Claim 36. Because Wine does not disclose or fairly suggest all the limitations of Claim 36, Claim 36 is allowable over Wine. Claims 37-38 depend from Claim 36 and are allowable for at least the reasons given for Claim 36.

The Applicant believes the rejected claims have been shown to be allowable. Accordingly, the Applicant has not modified claims objected to as depending from a rejected base claim.

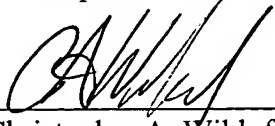
The Applicant believes the listing of claims and remarks to be fully responsive to the Office Action dated March 1, 2006. It is respectfully submitted that the claims are in condition for issuance. Favorable consideration and a timely Notice of Allowance are earnestly solicited.

Application No. 10/630,062
Response Dated June 28, 2006
Reply to Office Action Dated March 1, 2006

The Examiner is invited to call Mr. Chris Wiklof at (425) 882-6641 with any issues that may advance prosecution of the application on the merits. Applicant submits that no new matter is being submitted.

The Commissioner is authorized to charge any fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 50-0284.

Respectfully submitted,
Christopher A. Wiklof et al.



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CAW:kje

Enclosures:

Postcard
Transmittal Form PTO/SB/21
Petition for Two-Month Extension of Time (+ copy)
Change of Correspondence Address PTO/SB/122

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